



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 3895-99

15 November 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 24 November 1947 at the age of 19. Your record reflects that on 13 July 1948 you were convicted by deck court (DC) of disobedience, missing muster, and two incidents of failure to stand watch, and sentenced to extra duty for 20 days. Shortly thereafter, on 2 August 1948, you were convicted by summary court-martial (SCM) of breaking and entering and wrongful possession of other's clothing. You were sentenced to extra duty for two months, forfeitures totalling \$80, and a bad conduct discharge (BCD). Subsequently, the BCD was approved at all levels of review and ordered executed. On 27 October 1948 you received a BCD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, and your contention that you would like your discharge upgraded and your record cleared. The Board further considered your contention that you were falsely accused of theft and given an unfair and biased trial based on your Mexican descent. However, the Board concluded these factors were not sufficient to warrant a change in the characterization your

discharge given the serious nature of your misconduct. Additionally, there is no evidence in your record, and you provided none, to support your allegation of any racial discrimination and/or unfairness, legal or otherwise. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director